THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.12216 OF 2007

DATED: 09-08-2007

Between :

1. Smt. Ch. Jayasri and another. …Petitioners

And

1. The Syndicate Bank, Authorised Regional Office, Mogalrajapuram, Vijayawada-10, rep.by its Authorised Officer. …. Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.12216 OF 2007

ORDER :

This writ petition is filed aggrieved by the action of the respondent Bank in conducting sale of the properties bearing No.16-32-95/3 and 16-32-95/8 situated in Guntur, Guntur District under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Securitisation Act').

A perusal of the impugned auction notice dated 12-4-2006 shows that one M/s. Prasad and Pravin Industries availed financial assistance from the respondents by mortgaging the title deeds of the property in question as security. Since the borrowers failed to repay the amounts due, the respondents having invoked the provisions of the Securitisation Act issued the impugned notice dated 12-4-2006 proposing to sell the properties in question on 18-4-2006.

It is not in dispute that the 2nd petitioner herein is a partner of the firm M/s. Prasad and Pravin Industries. However, it is stated that one M. Jaya Prasad who is an employee of the respondent Bank and who is managing the partnership firm offered the property in question towards security by playing fraud.

Even assuming that the petitioners herein are claiming title to the property in question, the proper remedy for the petitioners is to make an application under Section 17 of the Act before the Debts Recovery Tribunal having jurisdiction. Various contentions raised by the petitioners involving disputed questions of fact cannot be enquired

into and decided by this Court in a writ proceeding under Article 226 of the Constitution of India.

Accordingly, granting leave and liberty to the petitioners to work out the alternative remedy, the Writ Petition is dismissed. No costs.

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G.ROHINI, J.

Dt. 09-8-2007

gbs